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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR           | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|--------------------------------|---------------------|------------------|
| 10/624,874   | 07/22/2003  | Kimberly Adams Lamson-Scribner | 235p-Lamson         | 6795             |
| 7590   | 04/07/2004  |                                | EXAMINER            |                  |
| The Law Office of Craig W. Barber<br>PO Box 16220<br>Golden, CO 80402-6004 |             |                                | LOFDAHL, JORDAN M   |                  |
|  |             |                                | ART UNIT            | PAPER NUMBER     |
|  |             |                                | 3644                |                  |

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                                 |
|------------------------------|-----------------|---------------------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)                    |
|                              | 10/624,874      | LAMSON-SCRIBNER, KIMBERLY ADAMS |
|                              | Examiner        | Art Unit                        |
|                              | Jordan Lofdahl  | 3644                            |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 22 July 2003.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 7/22/03.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "beam end bumper". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Steiner et al. (2994156).

As to claim 1, Steiner et al. discloses a device comprising a plurality of tiers having at least one horizontal beam; each beam having a cat attractant; each beam of the lowest tier having a plurality of cat attractants (fig. 1).

As to claim 2, disclosed are the cat attractants are visual proximate.

As to claim 3, disclosed are prey (fig. 1).

As to claim 4, disclosed is solitary prey.

As to claim 5, disclosed is a suspension means.

As to claim 6, disclosed is a suspension device.

As to claim 7, disclosed is a hook.

As to claim 8, disclosed is a suspension line.

As to claim 9, disclosed is a suspension member wrapped around a notch (fig. 1).

As to claim 10, is passing through the beam.

As to claim 11, disclosed is an end bumper (read as the end of the beam).

As to claim 12, disclosed is the end bumper comprising a cat attractant (fig. 1).

As to claim 14, disclosed is a device capable of being placed above a climbing object.

As to claim 15, disclosed is a device capable of being placed where an animal can contact it.

As to claim 16, disclosed is a first tier with a beam with a beam suspended from it; a plurality of cat attractants and visibly proximate each other (fig. 1).

As to claim 17, disclosed are multiple tiers; a primary axis; multiple attractants.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steiner et al. (2994156).

As to claim 13, not disclosed is a coated beam. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise a coated beam, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on M-F 7-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703.306.4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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